

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

PLAINTIFFS' MOTION FOR SCHEDULING CONFERENCE

Plaintiffs respectfully request that this Court conduct a status conference to develop a schedule for resolution of this case. This Court has scheduled a conference in *Pennsylvania State Conference of the NAACP v. Chapman*, No. 1:22-cv-339-SPB—which involves similar claims to those here—to occur on January 9, 2023. In the interest of efficiency, Plaintiffs here suggest that this Court conduct a conference in this case simultaneously, and in support of their motion, Plaintiffs aver as follows:

1. Due to ongoing recounts and delays in the county certification process,¹ Pennsylvania has not yet certified the results of its 2022 congressional elections.

2. Plaintiffs anticipate that once Pennsylvania's 2022 congressional elections are finally certified, Plaintiffs will wish to amend their complaint. However, because the certification process is still ongoing, Plaintiffs are not in a position to amend their complaint at this time.

¹ See Karen Shuey, *Berks cannot certify election results due to pending recount petitions*, Reading Eagle (Nov. 28, 2022), available at <https://www.readingeagle.com/2022/11/28/berks-cannot-certify-election-results/>. Pursuant to Section I.E of this Court's Chambers' Rules, a copy of this article is attached as Exhibit 1, with the date and time of PDF conversion included in the top left corner of each page.

3. On November 11, 2022, Plaintiffs' counsel sent an email to all Defendants and their known counsel requesting that they waive service. Over half of Defendants have since submitted service waivers. Plaintiffs are currently in the process of serving the remaining Defendants.

4. Despite the November 11 date of Plaintiffs' service-waiver request, a few of the service waivers that have been filed contain a different request date, producing docket-generated response deadlines ranging from January 6 to January 17.

5. In the interest of uniformity—particularly given the large number of defendants in this case—Plaintiffs request that the Court expressly set a deadline for all Defendants (including those who have not filed service waivers, for whom Plaintiffs will file proof of service in the coming days) to respond to Plaintiffs' complaint by January 10, 2023 (60 days after Plaintiffs' November 11 service-waiver request, *see* Fed. R. Civ. P. 4(d)(3)), and, if Plaintiffs have not filed an amended complaint by that date, allow Plaintiffs to amend their complaint as of right by January 31, 2023. *Cf.* Fed. R. Civ. P. 15(a)(1)(B).

6. Although Plaintiffs share the Court's interest in the timely resolution of this case, Plaintiffs believe that the ongoing election certification process—which will impact at least some of the Plaintiffs' claims—and Defendants' responses to the complaint will further clarify the remaining factual and legal disputes and will inform the scope of any discovery (and injunctive relief) that Plaintiffs may seek in this matter. As such, Plaintiffs do not believe that entering a scheduling order would be appropriate at this time. Plaintiffs instead request that this Court enter such order after the January 9 conference, which will allow all interested parties to offer their positions on how these cases should proceed once the election process, including the tabulation and certification of election results, has been completed.

Dated: November 30, 2022

Respectfully submitted,

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